



Report to the Auburn City Council

Action Item
Agenda Item No. **7**

City Manager's Approval
[Signature]

To: Mayor and City Council Members
From: Reg Murray, Senior Planner *[Signature]*
Date: October 28, 2013
Subject: Ordinance Amendment – Regional Commercial – Emergency Shelter Zone District; Transitional Housing; and Supportive Housing (File 301.3(bb))

The Issue

Should the City Council introduce for First Reading an Ordinance which establishes the Regional Commercial - Emergency Shelter (C-3-ES) zone district, develops standards for permanent and temporary emergency shelters, and permits Supportive and Transitional Housing in the Medium Density Multiple-family Residential (R-3) zone district. The new C-3-ES zone district will include all permitted and conditionally permitted uses allowed in the C-3 zone and add emergency shelters as a permitted use, subject to development standards.

Recommended Motion (Denial)

On Tuesday, September 17, 2013, the Auburn Planning Commission recommended, by a vote of 5-0, that the Auburn City Council take the following action:

- A. By Motion, deny the Ordinance Amendment to establish the Regional Commercial - Emergency Shelter (C-3-ES) zone district.

Alternative Motion (Approval)

If the City Council supports the creation of the Regional Commercial - Emergency Shelter (C-3-ES) zone district to allow emergency shelters, staff recommends the following actions:

- B. By Motion, adopt a Statutory Exemption prepared for the Ordinance as the appropriate level of environmental review in accordance with Section 15061 (b)(3) of the California Environmental Quality Act (CEQA) and Guidelines;
- C. By Motion, adopt the following Findings of Fact for approval of an Ordinance which establishes the Regional Commercial - Emergency Shelter (C-3-ES) zone district and permits transitional and supportive housing in the R-3 zone:
1. The Ordinance implements State law;
 2. The Ordinance is consistent with the Auburn General Plan Housing Element; and
 3. The Ordinance is the minimum necessary to protect the public interest, health, safety and general welfare.

- D. By Motion, introduce and hold a First Reading, by title only, of the attached Ordinance (Exhibit A) which establishes the Regional Commercial - Emergency Shelter (C-3-ES) zone district and permits transitional and supportive housing in the R-3 zone.

Background

In 2007, the State enacted Senate Bill 2 (SB 2) which amended California Government Code Section 65583 by requiring that jurisdictions plan for emergency shelters in the Housing Element (Element) of the General Plan. With SB 2, jurisdictions must identify at least one zone district that can accommodate at least one year-round emergency shelter; and, emergency shelters must be allowed as a permitted use (i.e. jurisdictions cannot require a use permit or other discretionary permit). An emergency shelter is generally defined as housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less.

The Auburn Planning Commission and the Auburn City Council have considered different options to satisfy the SB 2 requirements at several meetings over the last several months:

- March 5, 2013 – The Planning Commission reviewed of the initial proposal for the Industrial (M-2) zone.
- April 8, 2013 – Initial City Council review of the M-2 zone.
- May 13, 2013 – City Council takes no formal action on the M-2 zone proposal and provides direction to consider a zone overlay process and two potential overlay sites on Nevada Street and Wall Street.
- July 2, 2013 - Planning Commission review of an overlay ordinance and Rezone proposals for overlay sites on Nevada Street and Wall Street.
- July 22, 2013 - City Council reserves decision on the overlay ordinance and denies the Rezone proposals for the overlay sites on Nevada Street and Wall Street.
- July 29, 2013 - City Council public bus tour looking at site alternatives.
- August 12, 2013 - City Council review of alternatives; recommends new zone for emergency shelters in the Regional Commercial (C-3) zone district and consideration of nine lots on Auburn Ravine Road.
- September 17, 2013 - Planning Commission reviews the proposed Regional Commercial – Emergency Shelter (C-3-ES) zone district and the Rezone proposal for the Auburn Ravine Road project area; recommends denial of both proposals.
- October 14, 2013 - City Council reviews the proposed Regional Commercial – Emergency Shelter (C-3-ES) zone district and Rezone proposal for the Auburn Ravine Road project area. Council continues both proposals to October 28, 2013 and directs that the Industrial (M-2) zone district be brought back for reconsideration at the same hearing.

Proposed Ordinance

The proposed ordinance (Exhibit A) reflects the code amendments necessary to establish the Regional Commercial - Emergency Shelter (ES) zone district. The ordinance also includes the development standards for emergency shelters and includes various revisions based on City Council direction at prior public hearings. The code amendments are summarized below:

1. **Definitions (Exhibit A; Section One)** – The proposed ordinance provides several definitions, including ones for “Emergency Shelter,” “Institutional Use,” “Supportive Housing,” and “Transitional Housing.” The ordinance also includes a revised definition for “Family” to be consistent with current law.
2. **Supportive & Transitional Housing (Exhibit A; Section Two)** – Senate Bill 2 mandates that local jurisdictions permit “transitional housing” and “supportive housing,” with such housing treated the same as any other residential use property (i.e. as a use permitted by right). The proposed ordinance specifies that Supportive Housing and Transitional Housing will be permitted by right in the Multi-family Residential (R-3) zone district. In general, transitional housing means buildings configured as rental housing, but operated under program requirements that call for the termination of assistance and the recirculation of the unit to another eligible program recipient at some predetermined point in the future which shall be no less than six months; while supportive housing means housing with no limit on the length of stay that is occupied by a particular target population (generally, low income and disabled persons).
3. **Regional Commercial - Emergency Shelter Zone Established (Exhibit A; Section Three)** – This section amends Section 159.015 of the Auburn Municipal Code by adding the Regional Commercial - Emergency Shelter (C-3-ES) zone district.
4. **Regional Commercial - Emergency Shelter Zone District (Exhibit A; Section Four)** – Section Four details the Regional Commercial – Emergency Shelter (C-3-ES) zone district, including permitting and associated development standards. Pursuant to Section 159.047(B), permanent shelters will be allowed in the C-3-ES zone district; and, as required by SB 2, shelters will be permitted by right (i.e. allowed without the need for any additional discretionary action such as a use permit). Senate Bill 2 also allows jurisdictions to include development standards for permanent emergency shelters, but only in specific categories. Section 159.047(C) details the development and management standards applicable to emergency shelters:
 - a. **Occupancy** – Permanent emergency shelters would be allowed to have up to twenty-five (25) occupants at any one time. This development standard has received considerable discussion in the past, with recommendations by staff, the Planning Commission, and Council ranging between 15-30 persons. The current draft reflects the City Council’s direction from the meeting on July 22nd.
 - b. **Parking Requirements** – The proposed ordinance requires that emergency shelters provide a minimum of one parking space for each staff member plus one parking space for every four residents. This standard reflects direction from the City Council at their July 22nd hearing.

- c. Management – The management standards are consistent with prior drafts and include two revisions by the City Council: *Item 3.a* – The number of on-site staff was increased from one (1) to two (2); and, *Item 3.d* – The shelter will maintain a list of residents, that list will be available to the Police Department upon request, and management will notify the Police Department if they remove a resident from the facility.
 - d. Facilities – The proposed ordinance specifies that shelters provide certain minimum facilities. The list of facilities reflects prior recommendations by the City Council including a common area for use by the occupants, laundry facilities, and a minimum of two showers.
 - e. Operations Plan – The ordinance includes a requirement that the shelter provide the City with a plan detailing how the facility will be operated.
5. **Temporary Emergency Shelters (Exhibit A; Section Five)** – This section allows temporary emergency shelters as part of an institutional use and also includes development standards for temporary shelters.

Public Comment and Correspondence

Information previously provided to the Auburn City Council in consideration of the C-3-ES zone district is available in the Auburn Community Development Department and includes:

- Planning Commission staff report – September 17, 2013 hearing
- Planning Commission minutes - September 17, 2013 hearing
- Letter – Testimony of Otto Fox submitted September 12, 2013
- Letter – Testimony of Otto Fox dated October 7, 2013

Environmental Determination

In accordance with Section 15061 (b)(3) of the California Environmental Quality Act (CEQA) and Guidelines, a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is not possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Auburn Community Development Department reviewed this project as required by CEQA and found it to be Statutorily Exempt from the provisions of CEQA per §15061(b)(3).

Alternatives Available; Implications of Alternatives

1. Deny the Ordinance to create the Regional Commercial – Emergency Shelter (C-3-ES) zone district as recommended by the Planning Commission.
2. Introduce for first reading the Ordinance to create the Regional Commercial – Emergency Shelter (C-3-ES) zone district.

3. Continue consideration of the Ordinance creating the Regional Commercial – Emergency Shelter (C-3-ES) zone district and direct staff to provide additional information.
4. Do not adopt the Ordinance for the Regional Commercial – Emergency Shelter (C-3-ES) zone district and provide direction to staff to pursue alternatives.

Fiscal Impact

Minimal fiscal impact associated with preparation of the draft ordinance by Community Development staff in consultation with the City Attorney.

Exhibit:

- A. Ordinance – Regional Commercial-Emergency Shelter (C-3-ES) Zone and Transitional and Supportive Housing

ORDINANCE NO. 13 - _____

**AN ORDINANCE WHICH: 1) ESTABLISHES THE REGIONAL COMMERCIAL -
EMERGENCY SHELTER (C-3-ES) ZONE DISTRICT; 2) ESTABLISHES STANDARDS
FOR PERMANENT AND TEMPORARY EMERGENCY SHELTERS; AND 3)
PERMITS SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING IN THE
MULTIPLE-FAMILY (R-3) ZONE DISTRICT**

THE CITY COUNCIL OF THE CITY OF AUBURN HEREBY FINDS AS FOLLOWS:

- A. Whereas Chapter 633, Statutes of 2007 (SB 2) clarifies housing element law to ensure that zoning encourages and facilitates emergency shelters and limits the denial of emergency shelters and transitional and supportive housing under the Housing Accountability Act; and
- B. Whereas the City of Auburn General Plan Housing Element identifies implementation programs to promote equal housing opportunities for all persons; and
- C. Whereas the City of Auburn General Plan Housing Element includes Program N to accommodate emergency shelters and transitional and supportive housing; and,
- D. Whereas the City of Auburn desires to ensure sufficient capacity to house the City's homeless population in conformance with SB 2; and
- E. Whereas the City of Auburn desires to recognize transitional and supportive housing in conformance with SB2.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN DOES HEREBY ORDAIN:

Section One: Amend Section 159.001 (Definitions) of Title XV of the City of Auburn Municipal Code to revise the definition of **FAMILY** and add definitions for **EMERGENCY SHELTER**, **INSTITUTIONAL USE**, **SUPPORTIVE HOUSING** and **TRANSITIONAL HOUSING**, to read as follows:

EMERGENCY SHELTER. Shall have the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.

FAMILY. One or more persons living together in a dwelling unit, with common access to, and common use of all living, kitchen, and eating areas within the dwelling unit.

INSTITUTIONAL USE. Shall include premises associated with, but not limited to, places of worship, hospitals, educational facilities, and community service organizations.

SUPPORTIVE HOUSING. Shall have the same meaning as defined in subdivision (b) of Section 50675.14 of the Health and Safety Code.

TRANSITIONAL HOUSING. Shall have the same meaning as defined in subdivision (h) of Section 50675.2 of the Health and Safety Code.

Section Two: Amend Section 159.032 (Medium Density Multiple-family Residential District (R-3)) of Title XV of the City of Auburn Municipal Code by adding the following permitted uses:

- (A)(4) Supportive Housing
- (A)(5) Transitional Housing

Section Three: Amend Title XV, Section 159.015 (Established) of the City of Auburn Municipal Code to read as follows:

- (Z) Combining District (-P);
- (AA) Central Business -A District (C-2A); and
- (BB) Regional Commercial - Emergency Shelter District (C-3-ES)

Section Four: Amend Title XV, Chapter 159 of the City of Auburn Municipal Code by adding Section 159.047 (Regional Commercial - Emergency Shelter) as follows:

159.047 REGIONAL COMMERCIAL – EMERGENCY SHELTER (C-3-ES).

(A) The provisions of this subchapter are adopted to provide regulations which encourage and facilitate the operation of, development of, or conversion to, emergency shelters in accordance with state law and the city's adopted housing element.

(B) The following uses shall be permitted in the Regional Commercial – Emergency Shelter (C-3-ES) zone district:

1. All uses as permitted in the C-3 District.
2. Emergency shelters.

(C) Emergency shelters shall be subject to the following development standards:

1. **Occupancy.** The maximum number of occupants shall not exceed twenty-five (25).

2. **Parking Requirements.** Emergency shelters shall provide one parking space for every staff member present plus one parking space for every four (4) residents.

3. **Management.** The following management standards shall apply:

- a. On-site management shall be provided by at least two (2) emergency shelter staff members at all times while clients are present at the shelter.
- b. Security personnel shall be provided on-site during hours of operation.

- c. Hours of Operation. Shelters shall establish and maintain set hours for client intake/discharge, which must be prominently posted on-site.
 - d. Management shall maintain an active list of names of all occupants at the shelter. The list shall be provided to the Police Department upon request. Management shall notify the Police Department if they remove an occupant from the shelter.
4. **Facilities.** Shelters shall be situated in permanent premises and shall provide the following facilities:
- a. An intake/waiting area shall be provided so that clients are not required to wait on sidewalks or any other public rights-of-way.
 - b. Common area for the use of residents.
 - c. Laundry facilities.
 - d. Shower facilities – provide a minimum of two (2) showers.
 - e. Secure areas shall be provided for personal property.
 - f. Adequate interior and exterior lighting shall be provided.
 - g. Telephones shall be provided for use by clients.
5. **Operations Plan.** An operations plan is required for all emergency shelters to address management experience, good neighbor issues, transportation, client supervision, client services, and food services. The plan shall be submitted to and approved by the Community Development Department and Police Department prior to operation of the emergency shelter. The approved plan shall remain active throughout the life of the facility, and all operational requirements covered by the plan shall be complied with at all times. At a minimum, the plan shall include:
- a. A floor plan demonstrating compliance with the physical standards of this chapter.
 - b. Security and safety. Address both on- and off-site needs, including provisions to insure the security and separation of male and female sleeping areas, as well as any family areas within the facility.
 - c. Loitering/noise control. Include specific measures regarding operation controls to minimize the congregation of clients in the vicinity of the facility during hours that clients are not allowed on-site and/or services are not provided.
 - d. Management of outdoor areas. Include a system for daily admittance and discharge procedures and monitoring of waiting areas with a goal to minimize negative impacts to adjacent property.
 - e. Staff training. Insure adequate knowledge and skills to assist clients in obtaining permanent shelter.
 - f. Communication and outreach. Provide objectives to maintain effective, ongoing communication and response to operation issues which may arise within the neighborhood as may be identified by the general public or City staff.

- g. Adequate and effective screening. Identify the admittance eligibility of clients.
 - h. Litter control. Provide for the regular daily removal of litter attributable to clients within the vicinity of the facility.
 - i. Smoking/drinking/drugs. The possession, sale, and use of alcohol, tobacco, and illicit drugs shall be prohibited.
 - j. The names and contact information of all responsible parties.
- 6. Zone Specific Development Standards. An emergency shelter shall comply with all applicable development standards of the Regional Commercial zone district.
 - 7. The facility shall comply with all applicable state and local housing, building, and fire code requirements.
 - 8. The facility shall comply with all applicable state and local licensing as required for any program incidental to the emergency shelter.

Section Five: Amend Title XV, Chapter 159 of the City of Auburn Municipal Code by adding Section 159.380 (Temporary Emergency Shelters) as follows:

159.380 TEMPORARY EMERGENCY SHELTERS

- (A) The provisions of this subchapter are adopted to provide regulations which encourage and facilitate the operation of temporary (nomadic) emergency shelters.
- (B) Temporary emergency shelters are permitted as part of an institutional use.
- (C) Temporary emergency shelters shall be subject to the following standards:
 - 1. Temporary emergency shelters shall conform to the development standards identified in Section 159.047, except as modified below.
 - 2. The maximum number of occupants shall not exceed 60 persons during normal operations, and 75 occupants on severe weather dates.
 - 3. Temporary emergency shelters are not subject to any distance separation requirements.
 - 4. Emergency shelters shall not operate at the same premises more than four (4) nights per week.
 - 5. The shelter shall not operate more than 12 hours per day.
 - 6. The provision of laundry services and at least two showers shall be included as part of the Operations Plan.

Section Six: This Ordinance shall take effect thirty days following its adoption as provided by Government Code Section 36937.

Section Seven: The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government Code Section

36933, a summary of this Ordinance may be published and posted in lieu of publication and posting of the entire text.

Section Eight: If any part of this Ordinance is held to be invalid, such invalidity shall not affect any other provision which reasonably can be given effect without regard to the invalid provision and, to that end, the provisions of this Ordinance are hereby declared to be severable.

DATED: _____, 2013

Kevin Hanley, Mayor

ATTEST:

Stephanie L. Snyder, City Clerk

I, Stephanie L. Snyder, City Clerk of the City of Auburn, hereby certify that the foregoing ordinance was duly passed at a regular session meeting of the City Council of the City of Auburn held on the _____ day of _____ 2013 by the following vote on roll call:

Ayes:

Noes:

Absent:

Stephanie L. Snyder, City Clerk